

1 IGNACIA S. MORENO
 Assistant Attorney General
 2 Environmental and Natural Resources Division
 U.S. Department of Justice
 3 PATRICIA L. HURST
 Trial Attorney, Environmental Enforcement Section
 4 P.O. Box 7611
 Washington, D.C. 20044
 5 (202) 307-1242 (telephone); (202) 514-2583 (facsimile)
 Patricia.Hurst@usdoj.gov

6 MELINDA HAAG
 7 United States Attorney
 Northern District of California
 8 CHARLES O'CONNOR (SBN 56320)
 Assistant United States Attorney
 9 450 Golden Gate Avenue, 11th Floor
 San Francisco, California 94102
 10 (415) 436-7200 (telephone); (415) 436-7221 (facsimile)
 Attorneys for Plaintiff United States of America

11 (Additional Attorneys Listed on Signature Page)
 12

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION
 16

17 UNITED STATES OF AMERICA, ,
 18 Plaintiff,
 19 v.
 20 CITY OF ALAMEDA, et al.,
 21 Defendants.

No. 4:09-CV-05684-RS

STIPULATION AND ~~[PROPOSED]~~
 ORDER EXTENDING STAY FOR
 ADDITIONAL FORTY-FIVE DAYS

22 BAYKEEPER, INC., d/b/a SAN FRANCISCO
 23 BAYKEEPER, Intervenor-Plaintiff.

24 STIPULATION

25 Whereas, this action is a civil action brought by the United States of America ("United
 26 States") on behalf of the Administrator of the U.S. Environmental Protection Agency ("EPA")
 27 pursuant to section 309 of the Clean Water Act ("CWA"), 33 U.S.C. § 1319, against the cities of
 28 Alameda, Albany, Berkeley, Emeryville, Oakland, Piedmont, and the Stege Sanitary District

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1 (“Defendants”) to require compliance with CWA standards, limitations, and orders prohibiting
 2 discharge of sewage without CWA permit authorization;

3 Whereas, prior stipulations for stay of this action have been filed, and the most recent
 4 Order Granting Stay was filed February 18, 2011 extending the stay to and including May 16,
 5 2011;

6 Whereas, the negotiating teams for all parties have come to agreement on terms for
 7 settlement, the United States lodged on March 15, 2011 a Stipulated Order for Preliminary
 8 Relief, and the parties also lodged on March 16, 2011 a separate Proposed Order for a permanent
 9 stay during the lifetime of the Stipulated Order;

10 Whereas, plaintiffs recently received one comment on the Stipulated Order during the
 11 thirty-day public comment period and are considering the various points made in that comment;

12 Whereas the parties need an additional 45 day extension of the current stay to and
 13 including Friday, July 1, 2011 to permit (a) plaintiffs to have subsequent time to consider their
 14 response to the comment, (b) plaintiffs then to have a short time to file their motion with this
 15 Court to enter this Stipulated Order, and (c) the Court to have time to decide its ruling on this
 16 matter;

17 IT IS HEREBY STIPULATED THAT:

18 1. The stay previously granted is hereby extended to and including July 1, 2011, under
 19 the terms and conditions set forth herein. All litigation activity shall continue to be
 20 stayed in *United States v. City of Alameda, et al.*, USDC N.D. Cal. Case No. CV 09-
 21 05684 CW to and including July 1, 2011.

22 a. No party will file motions or initiate discovery.

23 b. The time for the United States to serve its summons and complaint will be
 24 tolled while the stay is in effect.

25 c. The time for Defendants to respond in any way to Baykeeper’s complaint in
 26 intervention will be tolled while the stay is in effect, and Defendants preserve
 27
 28

1 all options and arguments for any response to Baykeeper's complaint in
2 intervention.

3 2. Since on March 15, 2011 the United States filed an amended complaint in which the
4 Water Boards also are named as a plaintiff and assert State law claims, the time for
5 Defendants to receive summons and complaint as well as to respond in any way to
6 Plaintiffs' complaint remains tolled while the stay is in effect.

7
8 3. Until a new Scheduling Conference is scheduled sometime after July 1, 2011, the
9 parties will not hold their Conference under Fed. R. Civ. P. 26(f) and will not make
10 disclosures under Rule 26(a).

11 4. This Stipulation will not be considered a general appearance by the Defendants.

12
13 5. Baykeeper shall continue to have the right to participate in negotiations with the
14 United States, Water Boards, and the Defendants regarding the Stipulated Order for
15 Preliminary Relief. During the stay period, Baykeeper shall receive copies of any
16 documents or plans due under the current Administrative Orders issued to Defendants
17 on or about November 18, 2009, and shall have the opportunity to comment on those
18 documents and plans.

19 6. This Stay may be extended by stipulation of the parties, and further order of the
20 Court.

21
22 Dated: May 12, 2011

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24 Patricia Hurst by marilee J. aila
25 Patricia Hurst
26 United States Department of Justice
For Plaintiff United States

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John Davidson by Marilee J. Allen

John Davidson

California Attorney General's Office

For State of California, ex rel. California State Water Resources Control Board and California Regional Water Quality Control Board, San Francisco Bay Region

Jason Flanders by Marilee J. Allen

Jason Flanders

San Francisco Baykeeper, Inc.

For Intervenor-Plaintiff

Ellen Garber by Marilee J. Allen

Ellen J. Garber

Shute, Mihaly & Weinberger LLP, and

Donna Mooney, Acting City Attorney

For Defendant City of Alameda

(specially appearing without waiving
service of complaint)

Zach Cowan by Marilee J. Allen

Zach Cowan

City Attorney

For Defendant City of Berkeley (specially appearing without waiving
service of complaint)

Michael Biddle by Marilee J. Allen

Michael G. Biddle

City Attorney

For Defendant City of Emeryville

(specially appearing without waiving
service of complaint)

Thomas Curry by Marilee J. Allen

Thomas Curry

City Attorney

For Defendant City of Piedmont

(specially appearing without waiving
service of complaint)

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Kenton L. Alm by Marilee J. Allan

Kenton L. Alm
Meyers Nave Riback Silver & Wilson
Attorneys for Defendant Stege Sanitary District
and Defendant City of Albany
(specially appearing without waiving
service of complaint)

Marilee J. Allan

Marilee J. Allan
Bingham McCutchen LLP
Attorneys for Defendant City of Oakland
(specially appearing without waiving
service of complaint)

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.



U.S. District Court Judge

5/17/11

Date